



THE CITY OF NEW YORK  
LAW DEPARTMENT

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**Via Electronic Filing**

Hon. John F. Keenan  
United States District Judge  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

Re: *The State of New York Ex. Rel. Vinod Khurana and the City of New York Ex Rel. Vinod Khurana v. Spherion Corp. (N/K/A SFN Group, Inc.), 15 cv 6605 (JFK)*

Dear Judge Keenan:

I write on behalf of the City of New York (the “City”) to request that the Court schedule a conference in the above-referenced action, which was removed from state court on or about August 20, 2015, to discuss the status of this action and a motion that was pending in state court, but not yet fully briefed, at the time the case was removed. An initial pre-trial conference was scheduled for November 19, but was cancelled on November 16.

Plaintiff-Relator Vinod Khurana (the “Relator”) filed this *qui tam* action under seal in state court in April 2011. The Relator asserts claims on behalf of the State of New York (the “State”) and the City pursuant to the New York False Claims Act and New York City False Claims Act arising out of the CityTime project, an automated payroll and timekeeping system that Science Applications International Corporation (“SAIC”) developed for the City. Pursuant to the New York False Claims Act, in April 2013, the State filed a notice of authorization, declining to supersede or intervene in the claims raised by the Relator and authorizing the City to file a superseding complaint and substitute itself as plaintiff, to intervene in the action to aid the Relator, or to decline to supersede or intervene. In March 2015, the City filed a notice declining to supersede or intervene in the action. The action remained under seal until July 2015 when the seal was lifted and Relator filed and served the operative Second Amended Complaint, which asserts claims against defendant Spherion Corp. (N/K/A SFN Group, Inc.) (“Spherion”), another

City contractor involved in the CityTime project. Spherion removed this action to this Court on or about August 20, 2015.

At the time that Spherion removed this action, Relator had pending before the state court a motion seeking a relator share from the City of between \$75 and \$125 million of the restitution the City received from SAIC in connection with a deferred prosecution agreement entered into between SAIC and federal prosecutors. SAIC was named as defendant in the Complaint the Relator filed in state court in April 2011 and in the Amended Complaint the Relator filed in state court in October 2013, but not in the operative Second Amended Complaint filed and served in July 2015 and removed to this Court.

The motion for a relator share of the SAIC restitution was not yet fully briefed at the time this action was removed by Spherion. Relator filed the motion for a share of the SAIC restitution in April 2013, but as a result of an ongoing criminal investigation and prosecutions relating to the CityTime project, and upon orders of the state court, the City's time to respond to the motion was extended until April 2015. At that time, the City opposed the Relator's motion. Relator then served the City with document requests in connection with the motion and sought additional time to serve its reply after receiving the requested discovery. The City objected to some of the document requests, requiring a discovery conference in state court in July 2015. After the conference and resolution of the discovery disputes, the City estimated that it would require two months to produce the agreed upon discovery and the parties agreed that Relator would serve his reply on the motion for a relator share on October 12, 2015, after receiving the discovery. The City's document review took longer than the originally expected two months; however, the City will shortly be in a position to produce the discovery, subject to a confidentiality agreement to be agreed upon between the City, Spherion, and the Relator and so-ordered by the Court. The Relator has not yet served his reply on the motion for a relator share of the SAIC restitution.

Spherion has served a motion to dismiss that is currently scheduled to be fully briefed and filed on or about December 23, 2015. Spherion's motion raises legal and factual issues that overlap with issues raised by the City's opposition to the Relator's motion for a relator share of the SAIC restitution. Spherion's motion argues, in part, that the Relator's claims against Spherion are barred by the public disclosure bar in the New York False Claims Act and the City's opposition to the Relator's motion for a relator share is primarily based on the public disclosure bar as it applies to Relator's claims for a share of the SAIC restitution.

The City respectfully requests that the Court schedule a conference to address the status of the Relator's motion for a relator share that was filed in state court prior to removal. Please do not hesitate to contact me at 212-356-2273 if you have any questions regarding this matter.

Respectfully submitted,  
Sabita Krishnan  
Assistant Corporation Counsel